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Comprehensive review of the whole question of peacekeeping operations in all their aspects

Security Council
Seventy-first year

Letter dated 30 November 2016 from the Permanent Representative of Senegal to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the concept note entitled "Policy framework on intelligence in Peacekeeping Operations", which was drafted for the meeting of the Working Group on Peacekeeping Operations that I chaired on 27 July 2016 (see annex).

I should be grateful if you would have this letter and its annex circulated as a document of the General Assembly, under agenda item 51, and of the Security Council.

(*Signed*) Fodé **Seck**
Ambassador
Permanent Representative

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Please recycle

Annex to the letter dated 30 November 2016 from the Permanent Representative of Senegal to the United Nations addressed to the Secretary-General

Concept note on the theme "Policy framework for intelligence in United Nations peacekeeping operations" for the Working Group on Peacekeeping Operations

[Original: English]

I- BACKGROUND

Peacekeeping operations have always gathered and analysed information to better ensure the safety and security of peacekeepers, understand their operating environments, and maintain a strategic overview of developments in the mission area. As peacekeeping missions have evolved, so too have the capabilities, processes and procedures required for these purposes. Particularly in high-tempo, complex and dangerous operating environments where peacekeepers are directly targeted, better and more systematic intelligence gathering, management and analysis practices are required. As requirements in this area continue to grow, and as the nature of the tools deployed to the field evolves, there is a need to strengthen the framework around intelligence in field missions and at DPKO Headquarters to articulate a consistent and principled approach to intelligence firmly grounded in United Nations values; to establish a robust regime of oversight and accountability; and to enable an effective, responsible, integrated and secure whole-of-mission approach.

It is to this end that the Secretariat, in close consultation with and in response to guidance from Member States, is developing a Policy Framework for Intelligence in United Nations Peacekeeping Operations. This process has been iterative, relying heavily on the expertise of Member States to define the appropriate parameters within a United Nations peacekeeping context, recognizing that no single model will be appropriate for all missions. In the course of several engagements with Member States, a number of important areas for consideration have emerged. As another stage in this consultative process, this note captures some of these concerns and discusses proposed approaches to addressing these issues and mitigating risks. Feedback on these proposed approaches will inform the development of the Policy Framework, which will be the subject of ongoing dialogue with Member States in a variety of fora, including the Special Committee on Peacekeeping Operations.

II- ENHANCING THE INTELLIGENCE CAPABILITIES OF UNITED NATIONS PEACEKEEPING OPERATIONS

Over the past several years the mandates of peacekeeping operations and the threats they face have led the Security Council, Member States and Secretariat to consider intelligence as critical in ensuring missions' safety, security and effectiveness. In addition to Mali, which is discussed below, current examples include the DRC, where the mission is mandated to conduct offensive operations against mobile armed groups in jungle terrain and provide operational support to the FARDC; South Sudan, where the highly volatile security situation can deteriorate into heavy fighting with little notice and pose grave threats to civilians; and Darfur, where peacekeepers' safety and security and freedom of movement is often threatened by armed criminal elements. The 2016 report of the Special Committee on Peacekeeping Operations (A/70/19) recognised such developments and, in paragraph 52, "…acknowledges the need to improve situational awareness, and to enhance the safety and security of peacekeepers, including through the use of modern technology as a complement to traditional ways such as human information gathering… [and] encourages the Secretariat to develop a more cohesive and integrated United Nations system for situational awareness… [and ensure] capabilities are integrated effectively into mission operations and the confidentiality of all data gathered by such assets is preserved".

Innovations at Headquarters and in the field

For uniformed components, much of the work to enhance intelligence capacities for peacekeeping operations has been conducted under the strategic Uniformed Capabilities Development Agenda, which seeks to fill critical current and anticipated capability gaps for military and police units in peacekeeping operations. Initiatives being implemented as part of this agenda include projects to increase the capacity of missions to operate effectively and safely in threat environments characterized by the use of improvised explosive devices; to better understand transnational factors by enhancing mission criminal intelligence and capacity building expertise; and to develop operational guidance for police components which, the Strategic Guidance Framework for United Nations Policing articulates an approach to intelligence-led and community-oriented policing.

In addition, several innovations originating in the field have contributed to enhanced intelligence/information analysis capacities. The deployment of unarmed unmanned aerial vehicles (UAVs) to MONUSCO and subsequently other missions has added a new and

important dimension to information collected and analyzed by missions. Increased and more diverse modalities for engagement with local populations, such as the introduction of Community Liaison Assistants and the more systematic use of local perception surveys, have enabled a richer understanding of local populations and their priorities and concerns. The ongoing integration of the SAGE common incident tracking platform in field missions and rollout of a Mission Common Operational Picture (MCOP) data visualization platform will enhance situational awareness and decision making support that will help all mission components to plan and undertake mandated tasks safely and effectively.

MINUSMA and the ASIFU

In Mali, the mission is mandated to support stabilization and the implementation of a transitional roadmap while facing persistent threats of direct attacks from armed groups that employ asymmetric tactics. The nature of these threats prompted the Secretariat to deploy an All Sources Information Fusion Unit (ASIFU) to MINUSMA, the first of its kind in a United Nations peacekeeping operation. The ASIFU brings a diverse variety of military intelligence capacities under a single command to acquire, fuse and analyse information into intelligence products in a centralized facility. The continued requirement for such capacities has been repeatedly reflected in guidance from the Security Council, which in paragraph 31 of resolution 2295 of 29 June 2016 requested the Secretary-General to take "all appropriate additional measures and, in consultation with troop contributing countries, to identify options, including seeking the support of Member States, to enhance the safety and security of MINUSMA's personnel to enable MINUSMA to execute effectively its mandate in a complex security environment that includes asymmetric threats, including through improving MINUSMA's intelligence capacities, including surveillance and monitoring capacities, within the limits of its mandate…".

The deployment of an ASIFU in Mali has been an instructive experience for the Secretariat that will inform the development of the Policy Framework for Intelligence. In late 2015, a lessons learned exercise conducted by the Secretariat confirmed that an enhanced military intelligence function in MINUSMA was critical if the mission was to operate safely and effectively in such an environment. However, the exercise identified important opportunities to enhance the effectiveness of an intelligence structure in meeting the requirements of the mission in a United Nations multidimensional peacekeeping context. These included the full integration of functions performed by the ASIFU into the mission

structure, clear divisions of labour and coordination across the mission's uniformed and civilian components, including the Criminal Intelligence Unite and the Joint Mission Analysis Centre, and an approach to information security that would meet troop contributing countries' requirements for operational security while permitting an inclusive approach to information sharing. Based on these lessons, the exercise developed plans for a new intelligence architecture for MINUSMA designed to maximize the impact of all civilian, military and police intelligence and analysis assets, including the centralization of military intelligence functions in a single Force Headquarters organization. These recommendations are now being taken forward, in close collaboration with relevant troop contributing countries. The lessons learned exercise also identified a number of important policy issues that emerge from the use of intelligence assets in United Nations peacekeeping missions, many of which are reflected as part of this note.

III- KEY AREAS FOR CONSIDERATIONS FOR A POLICY FRAMEWORK

In February 2016 the Under-Secretary-General for Peacekeeping Operations conveyed to the Special Committee on Peacekeeping Operations the Secretariat's intention to develop a Policy Framework for Intelligence in United Nations Peacekeeping Operations as an iterative and consultative process relying heavily on the advice of Member States. Since then, several consultative engagements have taken place in a variety of fora, including a senior-level dialogue with Member States on 31 May 2016, in which the Secretariat presented an initial set of areas to be covered by the Policy Framework, including overarching principles, scope, key definitions structures and functions of an intelligence cycle, and legal considerations, and sought feedback from Member States.

During this and other engagements, a number of key areas for consideration have been raised as common concerns for Member States and the Secretariat. Identifying and implementing satisfactory solutions for these issues will be critical to ensuring the effectiveness and sustainability of intelligence as a function of United Nations peacekeeping operations. This will require sustained and detailed collaboration between the Secretariat and Member States. The following is a non-exhaustive list of key areas requiring discussion and, ultimately, resolution as part of the process to develop the Policy Framework. For each, aspects of potential approaches identified by the Secretariat are presented for consideration by Member States.

Information gathering and analysis

Definitions, limitations and parameters for operations: For some, the use of the term "intelligence" raises a number of questions about its meaning in a United Nations peacekeeping context. At its core, intelligence is a relatively neutral term describing information that has been 1) collected according to set requirements and 2) processed and analyzed to identify meaning. However, many associate the term with clandestine tactics and practices. Member States have thus questioned how the Secretariat will define intelligence in a manner that is consistent with the principles, doctrine and policies of the United Nations.

To address this concern, the Policy Framework would explicitly state that peacekeeping operations would not, except under exceptional circumstances, collect information by clandestine technical or human means and would be fully transparent in the tools they use. The Policy Framework would reinforce respect for all existing international legal and human rights obligations of mission and would refer to applicable elements of the United Nations Charter and international human rights and humanitarian law, such as the International Covenant on Civil and Political Rights, that would require missions to "avoid arbitrary or unlawful interference with [the] privacy, family, home or correspondence," of individuals. The operational and tactical limitations implied by these parameters could be reflected in mission-specific Intelligence Support Plans or Standing Operating Procedures, which would identify the appropriate (and inappropriate) techniques, tactics and procedures for intelligence in the mission and detail how the mission's intelligence activities will be regulated within the oversight and accountability regime established by the Policy Framework.

Sensor information gathering near neighboring countries: A number of Member States that border countries hosting peacekeeping operations have expressed concern that information collection tools, particularly aerial surveillance assets, could violate their sovereignty by gathering information on or about their territories. Although the legal foundations for peacekeeping operations clearly limit missions' activities to their areas of operations – i.e., within the host state – some have nevertheless expressed concern that

sensors collecting information near borders might inadvertently cross boundaries or collect information from neighbouring countries.

Since the first deployment of unmanned aerial systems to MONUSCO, the Secretariat has identified and implemented a number of lessons to mitigate the risk of entering into the airspace or inadvertently acquiring information on neighboring countries, including the development of guidance establishing areas of controlled access with progressive levels of authorization. Moreover, sensors can be programmed to exercise "shutter control" to limit their focus to authorized areas only. Provisions for such measures could be reflected in the Policy Framework as an integral element of a mission's Intelligence Support Plan or Standing Operating Procedure.

Information security and confidentiality

For mission intelligence systems to operate effectively and responsibly, the Secretariat must be able to ensure that sensitive information managed within the system and products disseminated by the system will be treated securely and with due respect for confidentiality. This is critical in at least two respects: first, to ensure the operational security of the mission, limit the dissemination of sensitive information within the mission, and protect sources and personnel; and, second, to meet the national operational security requirements of TCCs/PCCs that have deployed units that contribute to the missions' intelligence acquisitions, such as Intelligence, Surveillance and Reconnaissance (ISR) units and relevant Specialized Police Teams.

Secure systems: Missions that employ more robust intelligence capabilities or regularly handle highly sensitive information may require enhanced secure information management and communications systems beyond those normally used in peacekeeping operations. Such systems require sophisticated technological solutions as well as detailed management and oversight mechanisms for those working within them, and can be costly. As part of efforts to enhance the intelligence capabilities of MINUSMA, for example, the Secretariat is in the process of acquiring and deploying a United Nations-managed secure system covering the military intelligence structure to replace a similar system initially deployed as part of the ASIFU. The technical requirements and roles and responsibilities for the management of this system are being developed in close collaboration with relevant TCCs and could inform the eventual deployment of a system with broader coverage.

Classification and handling: While classification standards, roles and responsibilities, and handling procedures for sensitive information are clearly established by United Nations[1] and DPKO/DFS[2] policy, it is widely acknowledged that, in reality, information handling, oversight and accountability practices in United Nations peacekeeping operations may not always be sufficient to maintain the confidence of Member States. To address this gap, the forthcoming deployment of the United Nations-managed secure information management and communications system in the MINUSMA military intelligence structure has spurred detailed planning and development of practice on issues of access rights and electronic oversight tools, physical premises architecture, ISR unit liaison mechanisms and human resources modalities in the U-2, in close consultation with relevant TCCs. Once implemented, this approach can be learned from and replicated elsewhere as appropriate, which will require additional considerations in relation to the civilian and police components. More broadly, the Policy Framework could establish a clear regime of responsibility, accountability and oversight for the handling of information within the intelligence cycle at all stages of the chains of custody and command.

Information ownership

Legally, all information gathered by units or personnel (civilian or uniformed) deployed as part of a United Nations peacekeeping operation is the property of the mission, regardless of where or by whom it is held. As such, the management, use and sharing of this information is the sole decision of the United Nations. With the introduction of more advanced intelligence tools, tactics and procedures to peacekeeping operations, however, this principle will need to be reconciled with the national legal frameworks of many TCCs/PCCs, which include requirements to manage information so as to maintain operational security and minimize risk. This has given rise to calls for the Secretariat to clarify issues of information ownership and handling and set clear parameters for the flow, retention and disposal of information gathered by units or individuals operating as part of peacekeeping operations.

To bring clarity to these issues, the Policy Framework would outline the principles and limitations for the use, storage, retention and disposal of information gathered by peacekeeping operations and strengthen the provisions governing the use of collection assets

[1] ST/SGB/2007/6 on information sensitivity, classification and handling, for the purposes of ensuring the classification and secure handling of confidential information entrusted to or originating from the United Nations.
[2] DPKO/DFS Standard Operating Procedure on Access to Information (2010)

by TCCs/PCCs in missions. For example, Letters of Assist for airframes provided by TCCs for use by ISR units could be amended to include detailed terms for the use of information gathered by the tools, regardless of where the information is held and at which stage of custody; similar provision are currently included in agreements for airframes managed as mission assets.

IV- KEY QUESTIONS FOR DISCUSSION

- Do the areas for consideration described in this document reflect the priorities and concerns of Member States for development of the Policy Framework and for the effective, responsible and efficient execution of intelligence activities in peacekeeping operations? Are there any other areas that should be addressed?
- Would the approaches proposed in this document satisfy Member States concerns in these key areas?
- What coordination and management approaches are required to enable a fully integrated, whole-of-mission (i.e. integrated civilian and uniformed) approach to intelligence?
- What oversight functions would be required at all levels to maintain trust in mission intelligence structures?